

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PAUL MITCHELL,

Plaintiff,

vs

9:04-CV-1490

JAMES BELL, Captain; DONALD UHLER,
Lieutenant; LIEUTENANT RANSOM; LARRY
DUQUETTE, Sergeant; SERGEANT LUCIA;
C.O. CHAMPAGNE; C.O. WILT; C.O. DEAN
LACLAIR; C.O. KISSANE; KIM PERREA, R.N.;
DEBORAH JARVIS JOHN DOES 1-5; and
COUNSELOR ROY ANO,

Defendants.

APPEARANCES:

OF COUNSEL:

PAUL MITCHELL
Plaintiff, Pro Se
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HON. ELIOT SPITZER
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KATE H. NEPVEU, ESQ.
DAVID L. COCHRAN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Paul Mitchell, brought this civil rights action pursuant to 42 U.S.C. § 1983.

By Report-Recommendation dated August 29, 2006, the Honorable Gustave J. DiBianco,
United States Magistrate Judge, recommended that the defendants' motion for partial

dismissal be granted and the complaint be dismissed in its entirety as to defendants Kissane, Champagne, Jarvis, LaClair, Lucia, Wilt, and Duquette; that defendants' motion for partial dismissal be granted and the complaint dismissed as to defendant Bell only as to the April 2000 due process claim; that defendants' motion for partial dismissal be granted and the complaint dismissed as against defendant Ano, only to the extent that it alleges retaliation by defendant Ano; defendants' motion for partial dismissal be granted and the complaint dismissed to the extent that it requests damages in the remaining defendants' official capacities; and that the complaint be dismissed insofar as it raises Eighth Amendment claims. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge DiBianco, the Report-Recommendation is accepted and adopted in its entirety. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. The defendants' motion for partial dismissal is granted and the complaint is dismissed in its entirety as to defendants C.O. Kissane, C.O. Champagne, Deborah Jarvis, Dean LaClair, Sergeant Lucia, C.O. Wilt, and Larry Duquette;

2. Defendants' motion for partial dismissal is granted and the complaint is dismissed as to defendant James Bell only as to the April 2000 due process claim;

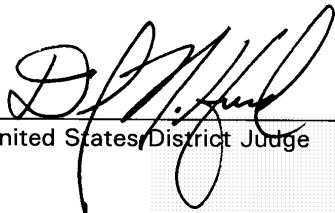
3. Defendants' motion for partial dismissal is granted and the complaint is dismissed as against defendant Roy Ano, only to the extent that it alleges retaliation by defendant Roy Ano;

4. Defendants' motion for partial dismissal is granted and the complaint is dismissed to the extent that it requests damages in the remaining defendants' official capacities; and

5. The complaint is dismissed insofar as it raises Eighth Amendment claims.

IT IS SO ORDERED.

Dated: October 23, 2006
Utica, New York.



United States District Judge